

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

1 PAUL SCOTT KLEIN,

2 v. Plaintiff,

3 MICHAEL FLAMM, et al.,

4 Defendants.

5 Case No. 3:23-cv-00337-ART-CSD

6 ORDER

7 (ECF No. 17)

I. DISCUSSION

8 After an unsuccessful inmate early mediation, Plaintiff filed a motion for
9 leave to file a supplemental complaint and attached the proposed supplemental
10 complaint. (ECF Nos. 11, 13, 13-1). U.S. Magistrate Judge Craig Denney denied
11 the motion for leave to file the supplemental complaint because Plaintiff's
12 proposed supplemental complaint addressed events that took place between May
13 31, 2022, through August 30, 2022. (ECF No. 16 at 2). Because Plaintiff had
14 initiated this action on July 10, 2023, the proposed supplemental complaint did
15 not address events that took place after Plaintiff initiated this action, and was not
16 a proper filing under Federal Rule of Civil Procedure 15(d). (*Id.*)

17 In response, Plaintiff filed a motion to reconsider or object to Judge
18 Denney's order. (ECF No. 17). In the motion, Plaintiff argues that 3 of the pages
19 in his 16-page supplemental complaint talk about an event that occurred on
20 March 25, 2024, and later. (*Id.* at 1).

21 Magistrate judges are authorized to resolve pretrial matters subject to
22 district court review under a "clearly erroneous or contrary to law" standard. 28
23 U.S.C. § 636(b)(1)(A); *see also* Fed. R. Civ. P. 72(a); L.R. IB 3-1(a) ("A district judge
24 may reconsider any pretrial matter referred to a magistrate judge in a civil or
25 criminal case pursuant to LR IB 1-3, where it has been shown that the magistrate
26 judge's ruling is clearly erroneous or contrary to law."). "This subsection would
27 also enable the court to delegate some of the more administrative functions to a
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1 magistrate judge, such as . . . assistance in the preparation of plans to achieve
 2 prompt disposition of cases in the court.” *Gomez v. United States*, 490 U.S. 858,
 3 869 (1989). “The district judge may affirm, reverse, or modify, in whole or in part,
 4 the magistrate judge’s order.” L.R. IB 3-1(b).

5 Pursuant to Federal Rule of Civil Procedure 15(d), “[o]n motion and
 6 reasonable notice, the court may, on just terms, permit a party to serve a party to serve a
 7 supplemental pleading setting out any transaction, occurrence, or event that
 8 happened after the date of the pleading to be supplemented.” The Supreme Court
 9 has held that Rule 15(d) “plainly permits supplemental amendments to cover
 10 events happening after suit, and it follows, of course, that persons participating
 11 in these new events may be added if necessary. Such amendments are well within
 12 the basic aim of the rules to make pleadings a means to achieve an orderly and
 13 fair administration of justice.” *Griffin v. Cty. Sch. Bd. of Prince Edward Cty.*, 377
 14 U.S. 218, 227 (1964). “While leave to permit supplemental pleading is ‘favored,’ .
 15 . . it cannot be used to introduce a ‘separate, distinct and new cause of action.’”
 16 *Planned Parenthood of S. Arizona v. Neely*, 130 F.3d 400, 402 (9th Cir. 1997).

17 After reviewing Plaintiff’s proposed supplemental complaint and objection,
 18 the Court will grant in part and deny in part Plaintiff’s objection. The Court finds
 19 that the majority of Plaintiff’s proposed supplemental complaint is improper. The
 20 supplemental complaint contains nine pages of factual allegations, and seven and
 21 a half pages are dedicated to events that do not fall within the scope of a
 22 supplemental pleading because they pre-date the initiation of the lawsuit. (See
 23 ECF Nos. 13-1 at 4-11). Plaintiff spends only two and half pages discussing an
 24 event that properly falls within the scope of a supplemental pleading. (See *id.* at
 25 11-13). The Court agrees with Judge Denney’s order denying the motion to file
 26 the supplemental complaint as drafted, but grants Plaintiff leave to submit a
 27 supplemental complaint that only addresses events that fall within the scope of
 28 Rule 15(d).

1 **II. CONCLUSION**

2 It is therefore ordered that the objection (ECF No. 17) is granted in part and
3 denied in part.

4 It is further ordered that the Court grants Plaintiff 30 days to file a
5 supplemental complaint that only addresses events that fall within the scope of
6 Rule 15(d).

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8 Dated this 31st day of May 2024.

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12 ANNE R. TRAUM
13 UNITED STATES DISTRICT JUDGE
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